

THE BERKMAN LAW OFFICE, LLC

111 Livingston Street, Suite 1928
Brooklyn, New York 11201

Tel: (718) 855-3627

Fax: (718) 855-4696

September 28, 2011

Hon. Judge Ronald L. Ellis
United States Magistrate Judge
United States District Court for
the Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Sokolow et al. v. Palestine Liberation Organization et al.*,
Civ. No. 04-397 (GBD)

Dear Magistrate Judge Ellis,

We represent Plaintiffs in the above-referenced matter. We write to request that Your Honor issue the attached Letter of Request for judicial assistance from the Israeli government under the Hague Convention.

The Letter of Request seeks the depositions of Abdullah Ghaleb Al-Jamal Barghouti ("Abdullah Barghouti") and Bilal Yakoub Ahmed Barghouti ("Bilal Barghouti") both of whom are currently prisoners in Israel.

Abdullah Barghouti was convicted for his involvement in the July 31, 2002 bombing at the Hebrew University in Jerusalem that is one of the seven terrorist attacks at issue in this action. Plaintiffs seek to depose Abdullah Barghouti because, according to several sources that Plaintiffs consider reliable (including the account of a former confidential informant and Israeli court documents), Defendants and/or their agents provided Abdullah Barghouti with funds, weapons and a safe house prior to the Hebrew University bombing, with knowledge that he had already carried out other deadly bombings.

Plaintiffs have no information connecting Bilal Barghouti to the attacks at issue in this case but they seek to depose him because, according to those same sources of information, he was present at – and was thus a witness to – Defendants' provision of support to and interactions with Abdullah Barghouti.

It is not at all uncommon for U.S. federal courts hearing civil actions under the Antiterrorism Act ("ATA") (like the instant case) to issue letters of request to the State of Israel seeking the depositions of persons in Israeli custody. See e.g. *Gilmore v. Palestinian Authority*, Civ. No. 01-00853(D.D.C.), DE 213, 224 (order granting motion to issue Hague Convention letter of request seeking depositions of prisoners in Israeli custody); *Saperstein v. Palestinian Authority*, Civ. No. 04-20225(S.D.Fla.), DE 393 (same); *Klieman v. Palestinian Authority*, Civ. No. 04-01173(D.D.C.), DE 100-101 (same).

And, as far as Plaintiffs' counsel is aware, the Israeli authorities have granted all such requests that have been made to date in ATA cases.

Plaintiffs have sought Defendants' position in respect to the instant application, and the latter have replied as follows:

Defendants' position is as follows: Defendants do not object to Plaintiffs' request to depose Abdullah Barghouti via Hague Request because Abdullah Barghouti was reportedly convicted in connection with the bombing at Hebrew University, which is one of the seven attacks at issue in these cases. Plaintiffs, however, have produced no evidence that Bilal Barghouti was involved in any of the seven attacks at issue here, and have stated that they "have no information connecting Bilal Barghouti personally to any of the attacks at issue." Defendants therefore do not believe that Bilal Barghouti possesses any information which is relevant to any party's claim or that his deposition is reasonably calculated to lead to the discovery of admissible evidence. However, notwithstanding this belief, if Plaintiffs wish to utilize one of their limited number of depositions to depose Bilal Barghouti via Hague Request, Defendants will not oppose that request. Defendants reserve the right, however, to oppose any future requests for additional depositions in light of Plaintiffs' decision to seek such an irrelevant deposition, which will be conducted at great cost and inconvenience to the Defendants.

The Plaintiffs do not agree with certain aspects of the Defendants' statement above; however, since the Defendants' bottom line is that

they do not oppose either deposition (*"Defendants do not object to Plaintiffs' request to depose Abdullah Barghouti"; "if Plaintiffs wish ... to depose Bilal Barghouti via Hague Request, Defendants will not oppose that request"*) the Plaintiffs will merely note their disagreement for the record.

Wherefore, the instant application should be granted.

Respectfully submitted,

S/ Robert J. Tolchin

Robert J. Tolchin

Counsel for Plaintiffs

Cc: Brian Hill, Esq.

Mark Rochon, Esq.

Richard Hibey, Esq.